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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/635,104	08/06/2003	William R. Heneveld SR.	HEN10 P.303	6962

277 7590 06/22/2005

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EXAMINER

KRAMER, DEAN J

ART UNIT	PAPER NUMBER
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3652

DATE MAILED: 06/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/635,104	HENEVELD, WILLIAM R.	
	Examiner	Art Unit	
	Dean J. Kramer	3652	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 9-30 and 32-35 is/are rejected.
- 7) ☒ Claim(s) 5-8 and 31 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 August 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>8/6/03 and 10/3/03</u> . | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. Claims 3, 23, and 25 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

There is no clear antecedent basis for "the releasable latch member" (claim 3) or "the bladed section" (claim 25).

Also, claim 23 is confusing in that it refers to plural "tool heads", in line 2, but only one tool head has been previously recited in claims 19 and 20 from which claim 23 depends.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 2, 4, 10, 13, 14, 18-22, 24, 33, and 35 are rejected under 35 U.S.C. 102(b) as being anticipated by Leon et al. (U.S. Pat. No. 6,315,341).

The patent to Leon et al. shows an adjustable tool comprising a tool head (20), a handle (12), an internally positioned adjustment mechanism (50,42), a cover (60), and a button (56).

4. Claims 1, 2, 4, 12-14, 19-22, 26, and 33-35 are rejected under 35 U.S.C. 102(b) as being anticipated by Hendrick (U.S. Pat. No. 3,115,359).

Hendrick shows a tool comprising an adjustable tool head (14,15), a handle (10), an adjustment mechanism (22,25), a cover (28), and a button (27).

5. Claims 1, 12, 16, 18-20, 26, 33, and 34 are rejected under 35 U.S.C. 102(b) as being anticipated by McIntosh (U.S. Pat. No. 2,689,155).

McIntosh shows a tool comprising a handle (10), a plurality of different interchangeable heads (17,19), and an adjustment assembly (13,16,25).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 11 and 25, as understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Leon et al. in view of Spear et al. (U.S. Pat. No. 5,975,601).

The patent to Spear et al. shows a gardening tool having a series of gradient markings (48) on its blade to assist the user in planting seeds, bulbs, or seedlings.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the Leon et al. tool head with gradient markings as

taught by Spear et al. to help the user measure the depth of a hole for planting seeds or the like.

8. Claims 1, 2, 9, 13-21, 23, 27-30, and 33, as understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Armstrong (U.S. Pat. No. 6,155,620) in view of Chuang (U.S. Pat. No. 5,265,969).

Armstrong shows a combination tool assembly for performing multiple tasks that contains all of the structural elements as broadly as recited in the above claims except for an *internally* positioned adjustment mechanism.

Chuang shows an internal adjustment mechanism comprising a button (4) having a plurality of teeth slidably engageable with a plurality of teeth (22) formed on a circular flange member to be locked in various angular positions.

Accordingly, it would have been obvious to a person having ordinary skill in the art to replace the bolt and nut securing means (27,27a) of Armstrong with a push button adjustment mechanism similar to that shown in the Chuang patent so that a user could easily manually adjust the position of the tool head relative to the handle without using additional tools.

9. Claims 3 and 32, as understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Armstrong in view of Chuang as applied to claims 2 and 27 above, and further in view of Tung (U.S. Pat. No. 6,364,562).

Tung shows an adjustment mechanism substantially similar to the Chuang assembly, but Tung's push button (12) has an outer surface contour (122) with a slightly concave design (see Fig. 5).

It would have been obvious to one of ordinary skill in the art to at least slightly indent the outer surface of the push button of the modified Armstrong device, presented supra, as taught by Tung in order to avoid inadvertent displacement of the button.

Allowable Subject Matter

10. Claims 5-8 and 31 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Drawings

11. The drawings are objected to because the section line in Figure 7 is not labeled as "X-X" (see page 4, line 7 of the specification). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and

informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

12. The disclosure is objected to because it contains an embedded hyperlink and/or other form of browser-executable code (see page 1, line 20). Applicant is required to delete the embedded hyperlink and/or other form of browser-executable code. See MPEP § 608.01.

Conclusion


13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Each of the remaining cited references shows a tool with a pivotally adjustable head.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dean J. Kramer whose telephone number is (571) 272-6926. The examiner can normally be reached on Mon., Tues., Thurs., Fri. (7:00-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen Lillis can be reached on (571) 272-6928. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3652

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

 6/20/05
Dean J. Kramer
Primary Examiner
Art Unit 3652

djk
6/20/05